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REMARKS

DEC 04 2006

The presently pending claims 1-4 stand rejected under 35 USC § 103a as being unpatentable over US Patent 4,963,131 in view of 4,416,772. The rejection is improper as the combination of the '131 patent and the '772 patent would not result in the present invention as claimed.

The present invention is directed to a novel collection bag for allowing an ophthalmic system to be air vented during surgery to alleviate a build-up of vacuum in the aspiration line. See the present application at paragraph 41. This is in stark contrast to the teaching of the '131 patent that teaches fluid venting and not air venting. The '131 patent teaches venting the aspiration line with fluid from the irrigation supply. See specification generally and col. 6, lines 1-18 specifically. The '131 patent does not encounter the problem identified in the present invention – providing sufficient air in the collection bag in order to vent the aspiration line – because the '131 patent relies solely on fluid venting to solve the excess vacuum condition in the aspiration line. Therefore, someone aware of the '131 patent would not even be concerned with the fitments of the collection bag for venting and would see no reason to combine the '131 patent teaching with the teachings of the '772 patent.

As to the applicability of the '772 patent, the Examiner is again reminded of the arguments set forth in prior responses. The '772 patent is not pertinent to the present invention because the '772 patent is directed to blood filtering and not ophthalmic surgery to air-vent an aspiration path as specifically claimed. As stated previously there is no teaching in the '772 patent regarding the need for ensuring that a sufficient amount of air remains in the collection bag. Rather the '772 patent is simply concerned with

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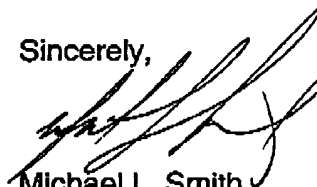
maintaining the pressure in the filter bag at atmosphere.

Simply no one skilled in the art would have considered either the '131 patent or the '772 patent in trying to overcome the problem solved by the claimed present invention. In fact, if the two teachings were to be combined the notched elements 22 of the '772 patent would have no utility in the fluid venting scheme taught by the '131 patent.

As the rejection of claims 2-4 depend from independent claim 1, based on the above arguments, they should also be in condition for allowance.

Therefore, in view of the above arguments it is respectfully submitted that the pending claims 1-4 are in condition for allowance and such allowance is requested at an early date.

Sincerely,



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